

MAR 05 2009

**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 6936

CURTIS JAMES BLAKE
2212 10th Street
Berkeley, CA 94710

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Vocational Nurse License No. VN 75913

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant), brings this
Accusation and Petition to Revoke Probation solely in her official capacity as the Executive
Officer of the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of
Consumer Affairs.

2. On or about February 4, 1977, the Board issued Vocational Nurse License
Number VN 75913 to Curtis James Blake (Respondent). The Vocational Nurse License expired
on April 30, 2008, and has not been renewed.

3. In a disciplinary action entitled *In the Matter of the Accusation Against
Curtis James Blake*, Case No. 6936, the Board issued a decision following a hearing, effective
April 6, 2007, in which Respondent's Vocational Nurse License was revoked. However, the

1 revocation was stayed and Respondent was placed on probation for a period of five (5) years
2 with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
3 incorporated by reference.

4 JURISDICTION

5 4. This Accusation and Petition to Revoke Probation is brought before the
6 Board under the authority of the following laws. All section references are to the Business and
7 Professions Code (Code) unless otherwise indicated.

8 5. Code section 2875 provides, in pertinent part, that the Board may
9 discipline the holder of a vocational nurse license for any reason provided in Article 3
10 (commencing with section 2875) of the Vocational Nursing Practice Act.

11 6. Code section 2892.1 provides, in pertinent part, that the Board may renew
12 an expired license at any time within four years after the expiration.

13 7. Code section 118, subdivision (b), provides, in pertinent part, that
14 expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary
15 action during the period within which the license may be renewed, restored, reissued or
16 reinstated.

17 STATUTORY PROVISIONS

18 8. Code section 2878, subdivision (f), states that the Board may suspend or
19 revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof.
20 Code, § 2840, et seq.)] for "[c]onviction of a crime substantially related to the qualifications,
21 functions, and duties of a licensed vocational nurse, in which event the record of the conviction
22 shall be conclusive evidence of the conviction."

23 9. Code section 490 states, in pertinent part:

24 "A board may suspend or revoke a license on the ground that the licensee has
25 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
26 duties of the business or profession for which the license was issued."

27 //

28 //

10. California Code of Regulations, title 16, section 2521, states:

“For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare.”

11. Code section 493 provides that, in proceedings to revoke a license or otherwise take disciplinary action against a licensee based on conviction of a substantially related crime, “the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred. . .”

COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

13. On or about April 6, 2007, Respondent's Vocational Nurse License was revoked, revocation stayed subject to a five-year term of probation. On or about December 17, 2007, in Alameda County Superior Court, Case Number 533692, Respondent was convicted of having violated California Vehicle Code section 23152, subdivision (b) (driving while having a .08 percent or higher blood alcohol concentration), arising out his collision with a pole and tree and subsequent arrest in Oakland, California, on or about September 6, 2007. Respondent first notified the Board of his arrest on or about October 6, 2007.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

14. Respondent is subject to disciplinary action under Code section 2878, subdivision (f), and section 490, in that he was convicted of a crime substantially related to the

1 qualifications, functions or duties of a licensed vocational nurse, as described in paragraph 13.

2 FIRST CAUSE TO REVOKE PROBATION

3 (Failure to Obey All Laws)

4 15. At all times after the effective date of Respondent's probation, Condition
5 1 stated, in pertinent part:

6 **Obey All Laws** – Respondent shall obey all federal, state and local laws,
7 including all statutes and regulations governing the license. Respondent shall
8 submit, in writing, a full and detailed account of any and all violations of the law
9 to the Board within five (5) days of occurrence.

10 16. Respondent's probation is subject to revocation because he failed to
11 comply with Probation Condition 1, referenced above, as follows:

12 a. On or about September 6, 2007, Respondent was arrested and
13 subsequently convicted for driving while having a .08 or higher blood alcohol concentration, as
14 described in paragraph 13, above.

15 b. Following his arrest, Respondent failed to submit to the Board
16 within five days a detailed account of the occurrence; he first notified the Board of his arrest
17 approximately 30 days after the date of the incident, as described in paragraph 13, above.

18 SECOND CAUSE TO REVOKE PROBATION

19 (Failure to Comply with Probation Program and Quarterly Reporting Requirements)

20 17. At all times after the effective date of Respondent's probation, Condition
21 2 stated:

22 **Compliance With Probation Program And Quarterly Report Requirements**
23 – Respondent shall fully comply with terms and conditions of the probation
24 established by the Board and shall cooperate with the representatives of the Board
25 in its monitoring and investigation of the Respondent's compliance with the
26 Probation Program.

27 Respondent shall submit quarterly reports, under penalty of perjury, in a form
28 required by the Board. The reports shall certify and document compliance with
all the conditions of probation.

18. Respondent's probation is subject to revocation because he failed to
comply with Probation Condition 2, referenced above, as follows:

1 a. Respondent failed to cooperate with the Board's representatives in
2 the monitoring and investigation of his probation by failing to timely respond to inquiries about
3 his September 2007 arrest made on or about October 11, 2007 and January 18, 2008;

4 b. Respondent submitted his April-June 2007 quarterly report on or
5 about July 25, 2007, approximately 18 days past its due date;

6 c. Respondent submitted his October-December 2007 quarterly
7 report on or about April 12, approximately 96 days past its due date;

8 d. Respondent submitted his January-March 2008 quarterly report on
9 or about January 5, 2009, approximately 273 days past its due date;

10 e. Respondent submitted his April-June 2008 quarterly report on or
11 about January 5, 2009, approximately 182 days past its due date;

12 f. Respondent submitted his July-September 2008 quarterly report on
13 or about January 5, 2009, approximately 90 days past its due date.

14 THIRD CAUSE TO REVOKE PROBATION

15 (Failure to Complete Educational Courses)

16 19. At all times after the effective date of Respondent's probation, Condition
17 9 stated:

18 **Completion of Educational Course(s)** – Respondent, at his own expense, shall
19 enroll and successfully complete a course(s) substantially related to the
20 violation(s) no later than the end of the first year of probation; or Respondent
shall be suspended from practice, until he or she has enrolled in and has
successfully completed the specified coursework.

21 The coursework shall be in addition to that required for license renewal. The
22 Board shall notify Respondent of the course content and number of contact hours
23 required. Within thirty (30) days of the Board's written notification of assigned
24 coursework, Respondent shall submit a written plan to comply with this
25 requirement. The Board shall approve such plan prior to enrollment in any course
of study.

26 Upon successful completion of the course, Respondent shall cause the instructor
27 to furnish proof to the Board within thirty (30) days of course completion.

28 1. Respondent's probation is subject to revocation because he failed to
comply with Probation Condition 9, referenced above, in that he failed to complete the required
remedial coursework in Law and Ethics and Anger/Stress Management by April 5, 2008.

1 FOURTH CAUSE TO REVOKE PROBATION

2 (Failure to Maintain a Valid License)

3 20. At all times after the effective date of Respondent's probation, Condition
4 10 stated, in pertinent part:

5 **Maintenance of Valid License** – Respondent shall, at all times while on
6 probation, maintain an active current license with the Board, including any period
7 during which suspension or probation is tolled.

8 21. Respondent's probation is subject to revocation because he failed to
9 comply with Probation Condition 10, referenced above, in that his Vocational Nurse License,
10 Number VN 75913, expired on April 30, 2008, and has not been renewed.

11 FIFTH CAUSE TO REVOKE PROBATION

12 (Failure to Make Cost Recovery Payments)

13 22. At all times after the effective date of Respondent's probation, Condition
14 11 stated, in pertinent part:

15 **Cost Recovery Requirements** – Cost Recovery in the amount of \$3,124.50 is
16 ordered to be paid by respondent. Respondent shall make timely payment as
17 directed in the Board's Decision pursuant to Business and Professions Code
18 Section 125.3. Failure to make payments in accordance with any formal
19 agreement entered into with the Board or pursuant to any Decision by the Board
20 shall be considered a violation of probation.

21 23. Respondent's probation is subject to revocation because he failed to
22 comply with Probation Condition 11, referenced above, in that he failed to make any payments
23 toward the \$3,124.50 in investigation and enforcement costs he was ordered to pay as a
24 condition of his probation.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 1. Revoking the probation that was granted by the Board of Vocational
6 Nursing and Psychiatric Technicians in Case No. 6936 and imposing the disciplinary order that
7 was stayed thereby revoking Vocational Nurse License No. VN 75913, issued to Curtis James
8 Blake;

9 2. Ordering Curtis James Blake to pay the Board of Vocational Nursing and
10 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
11 pursuant to Business and Professions Code section 125.3; and,

12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: March 5, 2009.

14 

15 TERESA BELLO-JONES, J.D., M.S.N., R.N.
16 Executive Officer
17 Board of Vocational Nursing and Psychiatric Technicians
18 Department of Consumer Affairs
19 State of California
20 Complainant

21 40302138.wpd

Exhibit A

Decision and Order

Board of Vocational Nursing and Psychiatric Technicians

Case No. 6936

BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Case No. 6936

CURTIS BLAKE
2212 10TH Street
Berkeley, CA 94710

OAH No. N2006100744

Vocational Nurse License
Number VN 75913


Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the Final Decision in the above entitled matter.

This Decision shall become effective on April 6, 2007.

IT IS SO ORDERED this 7TH day of March, 2007.


John P. Vertido, L.V.N.
President

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CURTIS JAMES BLAKE
2212 10th Street
Berkeley, CA 94710
Vocational Nurse License No. VN 75913,

Respondent.

Case No. 6936

OAH No. N2006100744

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on December 19, 2006.

Leslie E. Brast, Deputy Attorney General, represented complainant.

Respondent Curtis James Blake was present and represented himself.

Submission of the matter was deferred to January 9, 2007, for receipt of further evidence, which was received from respondent, marked as Exhibit "A," and considered. Further evidence was also received from complainant, marked as Exhibit "8," and considered. The matter was submitted on January 9, 2007.

FACTUAL FINDINGS

1. Teresa Bello-Jones, J.D., M.S.N., R.N. made the accusation in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs.

2. On February 4, 1977, the Board issued Vocational Nurse License Number VN 75913 to Curtis James Blake (respondent). The license is in full force and effect and will expire on April 30, 2008, unless otherwise renewed.

3. On December 19, 2001, in Alameda County Superior Court, Case Number 435808, respondent was convicted of having violated Welfare and Institutions Code section 10980, subdivision (c)(2) (welfare fraud), a misdemeanor, for defrauding Alameda County by failing to report to the Social Services Agency his employment or income while receiving General Assistance and Food Stamp benefits from May through August 1997. This conviction is for a crime involving dishonesty, which is substantially related to the duties, qualifications and functions of a vocational nurse licensee.

A 24-month conditional sentence was granted. The record indicates that as of July 24, 2002, respondent had paid the restitution in full. The amount of the actual restitution to Alameda County for overpayment appears to be \$554. Respondent had a reasonable belief that this matter was dismissed after he made restitution. The nature of the dismissal is not clear in the documents entered into evidence. It should be noted that this conviction was the result of overpayments made to respondent from May through August 1997. This was right after respondent was released from prison and he was having a difficult time financially.

4. On December 9, 1992, in Alameda County Superior Court, Case Number 114030, respondent was convicted on his plea of no contest of having violated Penal Code section 273.5 (corporal injury of a spouse of cohabitant), a felony.

Respondent was sentenced to a two-year prison term, and was released from parole in 1998.

5. On August 9, 2002, and on August 4, 1998, respondent signed and dated a renewal application swearing, under penalty of perjury, that he had not been: "convicted of or pled nolo contendere to any violation of any law of any state in the United States or a foreign country" since his last renewal, when, in fact, he had been convicted of a violation of law in 2001 and 1992 (which resulted in a prison term in 1994). Respondent admitted that he never informed the Board about either one of his convictions.

6. Respondent has been working as a licensed vocational nurse at Medical Hill Rehabilitation Center since September 20, 2006. He informed his employer that he had a criminal history before he was hired. The Director of Nursing Services stated in a letter dated December 26, 2006, that respondent "is an experienced nurse and his services to the patients and the community we serve has been valuable." Respondent also submitted a letter from Aequer Healthcare Services. He worked for that agency as a per diem employee (LPN) from December 2003 to June 2006. The resource manager stated in a letter respondent "has proven himself to be a hardworking and reliable nurse."

7. It has been almost 15 years since respondent was convicted of a crime involving violence and almost 10 years since respondent was released from parole based on that offense. While this was a serious crime, sufficient time has passed without any further violent incidents to demonstrate that it is unlikely that respondent will commit a violent

offense in the future. It should also be noted that the overpayments made to respondent occurred almost 10 years ago and occurred during a difficult time in respondent's life.

8. Respondent's lack of disclosure to the Board is of concern. However, under all the circumstances of this case, including the fact that respondent has been licensed for almost 30 years without any complaints concerning his activities as a licensed vocational nurse, it would not be against the public interest to allow respondent to continue his licensure on a probationary basis.

9. Cost recovery in the amount of \$3,124.50 was requested for the cost of prosecution of this matter. That amount is reasonable.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 3, cause for disciplinary action exists pursuant to Business and Professions Code section 2878,¹ subdivision (f) (conviction of a substantially related crime) and 2878, subdivision (j) (dishonesty).

2. By reason of the matters set forth in Finding 4, cause for disciplinary action exists pursuant to Business and Professions Code section 2878, subdivision (f) (conviction of a substantially related crime).

3. By reason of the matters set forth in Finding 5, cause for disciplinary action exists pursuant to Business and Professions Code section 2878, subdivisions (b), (e), and (j) (failure to disclose convictions and dishonesty).

4. The matters in mitigation, extenuation, and rehabilitation as set forth in Findings 6, 7, and 8 have been considered in making the following order.

5. Cost recovery in the amount of \$3,124.50 is reasonable and ordered pursuant to Business and Professions Code section 125.3.

ORDER

Vocational Nurse License Number VN 75913 issued to Curtis James Blake is hereby revoked. However, the revocation is stayed for a period of five (5) years upon the following terms and conditions:

¹ The accusation also refers to Business and Professions Code section 490 as a separate cause for disciplinary action. Business and Professions Code section 490 cannot be used as a separate cause for disciplinary action pursuant to *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554.

1. OBEY ALL LAWS

Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the Board within five (5) days of occurrence. To ensure compliance with this term, respondent shall submit two (2) completed fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprint cards were already submitted by respondent as part of his licensure application process effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph of himself within thirty (30) days of the effective date of the decision.

2. COMPLIANCE WITH PROBATION PROGRAM AND QUARTERLY REPORT REQUIREMENTS

Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of the Board in its monitoring and investigation of respondent's compliance with the Probation Program.

Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation.

3. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S)

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his new address and any change in his work and/or home telephone numbers.

4. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE

Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice in another state.

Respondent shall notify the Board, in writing, within five (5) days, upon his return to California.

The period of probation shall not run during the time respondent is residing or practicing outside California.

5. NOTIFICATION TO EMPLOYER(S)

When currently employed or applying for employment in any capacity in any health care profession, respondent shall notify his employer of the probationary status of respondent's license. This notification to the respondent's current health care employer shall occur no later than the effective date of the Decision. Respondent shall notify any prospective health care employer of his probationary status with the Board prior to accepting such employment. This notification shall be by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

The health care profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit quarterly reports to the Board. The reports shall be on a form provided by the Board, shall include a performance evaluation and such other information as may be required by the Board.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, if he is terminated from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination.

6. INTERVIEWS/MEETINGS WITH BOARD REPRESENTATIVE(S)

Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board, or its designated representatives.

7. EMPLOYMENT REQUIREMENTS AND LIMITATIONS

During probation, respondent shall work in his licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified

and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

8. SUPERVISION REQUIREMENTS

Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to the respondent while employed as a licensed vocational nurse or psychiatric technician.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

9. COMPLETION OF EDUCATIONAL COURSE(S)

Respondent, at his own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation; or respondent shall be suspended from practice, until he has enrolled in and has successfully completed the specified coursework.

The coursework shall be in addition to that required for license renewal. The Board shall notify respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

10. MAINTENANCE OF VALID LICENSE

Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

Should respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's license shall be subject to any and all terms of this probation not previously satisfied.

11. COST RECOVERY REQUIREMENTS

Cost recovery in the amount of \$3,124.50 is ordered to be paid by respondent. Respondent shall make timely payment as directed in the Board's Decision pursuant to Business and Professions Code Section 125.3. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

The Board may conditionally renew or reinstate, for a maximum of one year, the license of any respondent who demonstrates financial hardship. Respondent shall enter into a formal agreement with the Board to reimburse the unpaid costs within that one year period.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

12. VIOLATION OF PROBATION

If respondent violates the conditions of his probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, respondent's license will be fully restored.

DATED: 11/19/67

Ruth S. Astle
RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

Accusation No. 6936
Board of Vocational Nursing and Psychiatric Technicians

SEP 13 2006

**Board of Vocational Nursing
and Psychiatric Technicians**

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Attorneys for Complainant

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BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the Accusation Against:

Case No. 6936

CURTIS JAMES BLAKE
2212 10th Street
Berkeley, California 94710
Vocational Nurse License No. VN 75913

OAH No.

ACCUSATION

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about February 4, 1977, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 75913 to Curtis James Blake (Respondent). The license expired on April 30, 2006, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Code section 2875 provides, in pertinent part, that the Board may
2 discipline the holder of a vocational nurse license for any reason provided in Article 3
3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4 5. Code section 118, subdivision (b), provides, in pertinent part, that
5 expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary
6 action during the period within which the license may be renewed, restored, reissued or
7 reinstated.

8 STATUTORY PROVISIONS

9 6. Code section 2878 states:

10 "The Board may suspend or revoke a license issued under this chapter [the
11 Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)) for any of the following:

12 ...

13 (b) Procuring a certificate by fraud, misrepresentation, or mistake.

14 ...

15 (e) Making or giving any false statement or information in connection with the
16 application for issuance of a license.

17 (f) Conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensed vocational nurse, in which event the record of the conviction shall be
19 conclusive evidence of the conviction.

20 ...

21 (j) The commission of any act involving dishonesty, when that action is related to
22 the duties and functions of the licensee. . ."

23 7. Code section 490 states, in pertinent part:

24 "A board may suspend or revoke a license on the ground that the licensee has
25 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
26 duties of the business or profession for which the license was issued."

27 //

28 //

1 8. California Code of Regulations, title 16, section 2521, states:

2 "For the purposes of denial, suspension, or revocation of a license pursuant to
3 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
4 act shall be considered to be substantially related to the qualifications, functions or duties of a
5 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
6 licensed vocational nurse to perform the functions authorized by his license in a manner
7 consistent with the public health, safety, or welfare."

8 9. Code section 493 provides that, in proceedings to revoke a license or
9 otherwise discipline a licensee based on conviction of a substantially related crime, "the record
10 of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred.
11 ."

12 13 COST RECOVERY

14 10. Code section 125.3 provides, in pertinent part, that the Board may request
15 the administrative law judge to direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 19 FIRST CAUSE FOR DISCIPLINE

20 (Conviction of a Substantially Related Crime)

21 11. Respondent is subject to disciplinary action under Code section 2878,
22 subdivision (f), and section 490, in that he was convicted of a crime substantially related to the
23 qualifications, functions or duties of a licensed vocational nurse. The circumstances are as
24 follows:

25 12. On or about December 19, 2001, in Alameda County Superior Court, Case
26 Number 435808, Respondent was convicted of having violated Welfare and Institutions Code
27 section 10980(c)(2) (welfare fraud), a felony, for defrauding Alameda County by failing to report
28 to the Social Services Agency his employment or income while receiving General Assistance

1 and Food Stamp benefits from May through August 1997.

2
3 SECOND CAUSE FOR DISCIPLINE

4 (Dishonesty)

5 13. Respondent is subject to disciplinary action under Code section 2878,
6 subdivision (j), in that he acted dishonestly when he failed to report to Alameda County Social
7 Services Agency his employment or income while receiving public benefits from May through
8 August 1997. The circumstances are described in paragraph 12 above.

9
10 THIRD CAUSE FOR DISCIPLINE

11 (Conviction of a Substantially Related Crime)

12 14. Respondent is subject to disciplinary action under Code section 2878,
13 subdivision (f), and section 490, in that he was convicted of a crime substantially related to the
14 qualifications, functions or duties of a licensed vocational nurse. The circumstances are as
15 follows:

16 15. On or about December 9, 1992, in Alameda County Superior Court, Case
17 Number 114030, Respondent was convicted on his no contest plea of having violated Penal Code
18 section 273.5 (corporal injury of a spouse or cohabitant), a felony.

19
20 FOURTH CAUSE FOR DISCIPLINE

21 (Failure to Disclose Convictions)

22 16. Respondent is subject to disciplinary action under Code section 2878,
23 subdivisions (b), (e) and/or (j), for procuring renewal of his vocational nurse license by fraud,
24 misrepresentation, false statements and/or dishonesty. The circumstances are as follows:

25 17. On or about June 7, 2004, Respondent signed and dated his Licensed
26 Vocational Nurse Renewal Application swearing, under penalty of perjury, that he had not "been
27 convicted of or pled nolo contendere to any violation of any law of any state in the United States
28 or a foreign country." In so doing, he failed to disclose his 1998 and 1992 felony convictions.

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WHEREFORE, Complainant requests that a hearing be held on the matters herein

alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric

Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 75913,
issued to Curtis James Blake;

2. Ordering Curtis James Blake to pay the Board of Vocational Nursing and
Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: September 13, 2006



TERESA BELLO-JONES, J.D., M.S.N., R.N.

Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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